

109TH CONGRESS  
1ST SESSION

# H. R. 4172

To provide for enhanced enforcement of the Federal immigration laws, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2005

Mr. NEY introduced the following bill; which was referred to the Committee  
on the Judiciary

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## A BILL

To provide for enhanced enforcement of the Federal  
immigration laws, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep Americans Safe  
5 Act of 2005”.

6 **SEC. 2. FEDERAL AFFIRMATION OF STATE AND LOCAL AS-**  
7 **SISTANCE IN ENFORCEMENT OF FEDERAL**  
8 **IMMIGRATION LAWS.**

9 (a) IN GENERAL.—Notwithstanding any other provi-  
10 sion of law and reaffirming the existing inherent authority

1 of States, law enforcement personnel of a State or a polit-  
 2 ical subdivision of a State have the inherent authority of  
 3 a sovereign entity to investigate, apprehend, arrest, detain,  
 4 or transfer to Federal custody aliens in the United States  
 5 (including the transportation of such aliens across State  
 6 lines to detention centers), in the course of carrying out  
 7 their routine duties for the purpose of assisting in the en-  
 8 forcement of the immigration laws of the United States.

9 (b) CONSTRUCTION.—Nothing in this section shall be  
 10 construed to require law enforcement officers of a State  
 11 or political subdivision of a State to—

12 (1) report the identity of victims of, or wit-  
 13 nesses to, a criminal offense to the Secretary of  
 14 Homeland Security; or

15 (2) arrest such victims or witnesses for immi-  
 16 gration violations.

17 **SEC. 3. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
 18 **TIONAL CRIME INFORMATION CENTER (NCIC)**  
 19 **DATABASE.**

20 (a) PROVISION OF INFORMATION TO NCIC.—

21 (1) IN GENERAL.—Not later than 180 days  
 22 after the date of the enactment of this Act, and con-  
 23 tinually thereafter, the Under Secretary for Border  
 24 and Transportation Security of the Department of  
 25 Homeland Security shall provide the National Crime

1 Information Center of the Department of Justice  
2 with such information as the Under Secretary may  
3 have on—

4 (A) all aliens against whom a final order of  
5 removal has been issued;

6 (B) all aliens who have signed a voluntary  
7 departure agreement; and

8 (C) all aliens whose visas have been re-  
9 voked.

10 (2) CIRCUMSTANCES.—The information de-  
11 scribed in paragraph (1) shall be provided to the  
12 National Crime Information Center regardless of  
13 whether—

14 (A) the alien received notice of a final  
15 order of removal; or

16 (B) the alien has already been removed.

17 (b) INCLUSION OF INFORMATION IN NCIC DATA-  
18 BASE.—Section 534(a) of title 28, United States Code, is  
19 amended—

20 (1) in paragraph (3), by striking “and” at the  
21 end;

22 (2) by redesignating paragraph (4) as para-  
23 graph (5); and

24 (3) by inserting after paragraph (3) the fol-  
25 lowing:

1 “(4) acquire, collect, classify, and preserve  
 2 records of violations of the immigration laws of the  
 3 United States; and”.

4 (c) PERMISSION TO DEPART VOLUNTARILY.—Section  
 5 240B(a)(2)(A) of the Immigration and Nationality Act (8  
 6 U.S.C. 1229c(a)(2)(A)) is amended by striking “120” and  
 7 inserting “30”.

8 **SEC. 4. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**  
 9 **HENDED BY STATE OR LOCAL LAW ENFORCE-**  
 10 **MENT.**

11 Section 241 of the Immigration and Nationality Act  
 12 (8 U.S.C. 1231) is amended by adding at the end the fol-  
 13 lowing:

14 “(j) CUSTODY OF ILLEGAL ALIENS.—

15 “(1) IN GENERAL.—If the chief executive offi-  
 16 cer of a State or, if appropriate, a political subdivi-  
 17 sion of the State, exercising authority with respect  
 18 to the apprehension of an illegal alien submits a re-  
 19 quest to the Secretary of Homeland Security that  
 20 the alien be taken into Federal custody, the Sec-  
 21 retary of Homeland Security—

22 “(A) shall—

23 “(i) not later than 48 hours after the  
 24 conclusion of the State charging process or  
 25 dismissal process, or if no State charging

1 or dismissal process is required, not later  
2 than 48 hours after the illegal alien is ap-  
3 prehended, take the illegal alien into the  
4 custody of the Federal Government and in-  
5 carcerate the alien; or

6 “(ii) request that the relevant State or  
7 local law enforcement agency temporarily  
8 incarcerate or transport the illegal alien for  
9 transfer to Federal custody; and

10 “(B) shall designate at least 1 Federal,  
11 State, or local prison or jail, or a private con-  
12 tracted prison or detention facility, within each  
13 State as the central facility for that State to  
14 transfer custody of the criminal or illegal alien  
15 to the Secretary of Homeland Security.

16 “(2) REIMBURSEMENT.—

17 “(A) IN GENERAL.—The Department of  
18 Homeland Security shall reimburse States and  
19 political subdivisions for all reasonable ex-  
20 penses, as determined by the Secretary of  
21 Homeland Security, incurred by a State or po-  
22 litical subdivision in the incarceration and  
23 transportation of an illegal alien as described in  
24 subparagraphs (A) and (B) of paragraph (1).

1           “(B) COST COMPUTATION.—Compensation  
2           provided for costs incurred under subpara-  
3           graphs (A) and (B) of paragraph (1) shall be  
4           the sum of—

5                   “(i)(I) the average cost of incarcer-  
6                   ation of a prisoner per day in the relevant  
7                   State, as determined by the chief executive  
8                   officer of a State, or, as appropriate, a po-  
9                   litical subdivision of the State; multiplied  
10                  by

11                   “(II) the number of days that the  
12                   alien was in the custody of the State or po-  
13                   litical subdivision; and

14                   “(ii) the cost of transporting the  
15                   criminal or illegal alien—

16                   “(I) from the point of apprehen-  
17                   sion to the place of detention; and

18                   “(II) if the place of detention  
19                   and place of custody are different, to  
20                   the custody transfer point.

21           “(3) AUTHORIZATION OF APPROPRIATIONS.—  
22           There are authorized to be appropriated such sums  
23           as may be necessary to carry out paragraph (2).”.

1 **SEC. 5. FELONIES COMMITTED BY ILLEGAL ALIENS.**

2 (a) OFFENSES.—Title 18, United States Code, is  
3 amended by inserting after chapter 51 the following new  
4 chapter:

5 **“CHAPTER 52—ENHANCED PENALTIES**  
6 **FOR FELONIES COMMITTED BY ILLE-**  
7 **GAL ALIENS**

8 **“§ 1131. Enhanced penalties for felonies committed**  
9 **by illegal aliens**

10 “Whoever, being an alien who is unlawfully present  
11 in the United States, commits a felony shall be fined under  
12 this title and sentenced to not less than 5 years in prison.  
13 If the defendant was previously ordered removed under the  
14 Immigration and Nationality Act on the grounds of having  
15 committed a crime, the defendant shall be sentenced to  
16 not less than 15 years in prison. A sentence of imprison-  
17 ment imposed under this section shall run consecutively  
18 to any other sentence of imprisonment imposed for any  
19 other crime.”.

20 (b) CLERICAL AMENDMENT.—The table of chapters  
21 at the beginning of part I of title 18, United States Code,  
22 is amended by inserting after the item relating to chapter  
23 51 the following new item:

“CHAPTER 52—ENHANCED PENALTIES FOR FELONIES COMMITTED BY  
ILLEGAL ALIENS

“1131. Enhanced penalties for felonies committed by illegal aliens.”.

